

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2656

PETITION OF BAYWOOD HOTELS, INC.

OPINION OF THE BOARD

(Opinion Adopted April 5, 2006)

(Effective Date of Opinion: April 28, 2006)

Case No. S-2656 is an application for a special exception, pursuant to Section 59-G-2.33 of the Montgomery County Code, for a hotel. The Hearing Examiner for Montgomery County held a hearing on the special exception on January 30, 2006, closed the record in the case on March 20, 2006, and on March 21, 2006 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 39, WesTech Business Park Subdivision, located at 2200 Broadbirch Drive, Silver Spring, Maryland, 20904, in the I-1 Zone.

Decision of the Board: Special Exception **Granted**, Subject
To Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on April 5, 2006. After careful consideration, and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in the Hearing Examiner's Report, and in this opinion.
2. Petitioner must comply with any conditions set by the Department of Permitting Services in approving the site's Stormwater Management

Plan.

3. There must be no encroachment into the wetland buffer areas except for necessary stormwater management outfalls, as approved by DPS.
4. Petitioner must not disturb or in any way interrupt the groundwater monitoring wells at the site and must allow access for monitoring.
5. Petitioner's hotel shall not exceed 104 rooms, which is equivalent to 34,118 square feet of general office use, and a staff of 25.
6. Petitioner shall install a bus shelter on Broadbirch Drive in the vicinity of the hotel. The precise location and details of the bus shelter should be determined at the time of site plan review, and any necessary amendment to the special exception site plan shall be forwarded to the Board of Appeals as an administrative modification request.
7. If, at the time of site plan review, the Petitioner is required to provide for additional sidewalks, handicapped ramps and crosswalks, any necessary amendment to the special exception site plan shall be forwarded to the Board of Appeals as an administrative modification request.
8. No more than five scheduled deliveries of goods may be made to the hotel per week.
9. Petitioner must obtain sign permits from the Department of Permitting Services and file them with the Board before erecting any signs. A modified special exception site plan should be submitted at that time showing the locations and dimensions of any signs.
10. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.
11. If the Site Plan approved by the Planning Board at Site Plan Review differs materially from the Special Exception Site Plan (Exhibit 49(a) approved by the Board of Appeals, Petitioner must file the Site Plan with the Board of Appeals and request an administrative modification of the Special Exception Site Plan to coincide with the Site Plan approved by the Planning Board.

On a motion by Caryn L. Hines, seconded by Wendell M. Holloway, with Angelo M. Caputo and Donna L. Barron, Vice-Chair in agreement, and Allison Ishihara Fultz, Chair Ishihara Fultz, Chair necessarily not participating, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 28th day of April, 2006.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.